

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

WATERS INDUSTRIES, INC., an Illinois corporation,	)	Civil Action No. _____
	)	
Plaintiff,	)	The Honorable _____
	)	
v.	)	Magistrate Judge _____
	)	
	)	<b>COMPLAINT</b>
MR. CHRISTMAS INCORPORATED, a New York corporation, FOR YOUR EASE ONLY, INC., an Illinois Corporation, QVC, Inc., a Delaware Corporation, and HAMMACHER, SCHLEMMER & CO., INC. a New York corporation,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendants.	)	

Plaintiff, Waters Industries, Inc. ("Waters Industries") complains against Defendants, Mr. Christmas Incorporated, For Your Ease Only, Inc., QVC, Inc., and Hammacher, Schlemmer & Co., Inc. as follows:

**THE PARTIES**

1. Waters Industries is a corporation incorporated under the laws of the State of Illinois with its principal place of business at 213 West Main Street, West Dundee, Illinois. Waters Industries' wholly owned Panther Vision division designs and sells a variety of hands free LED task lighting products for consumers and businesses, including lighted eyeglasses.

2. Upon information and belief, Defendant, Mr. Christmas Incorporated, is a corporation incorporated under the laws of the State of New York with its principal place of business at 41 Madison Avenue, Suite 3803, New York, New York 10010. Upon information and belief, Defendant, Mr. Christmas Incorporated, by itself, and/or through one or more entities owned, controlled or otherwise affiliated with Mr. Christmas Incorporated, conducts business in Illinois and in this District including, without limitation, by promoting, distributing and selling a variety of

novelty products to various third-parties for resale to consumers through numerous retail stores physically located in this District. Upon information and belief, Mr. Christmas Incorporated's activities in this District include conducting and transacting business with Defendant, For Your Ease Only, Inc., relating to the advertising, offer for sale and sale of LED lighted eyeglasses in this District that compete directly with the lighted eyeglasses of Waters Industries' Panther Vision division.

3. Upon information and belief, Defendant, For Your Ease Only, Inc., is a corporation incorporated under the laws of the State of Illinois with its principal place of business at 1301 North Dearborn Parkway, Suite 402, Chicago, Illinois 60610. Upon information and belief, Defendant, For Your Ease Only, Inc., by itself, and/or through one or more entities owned, controlled or otherwise affiliated with For Your Ease Only, Inc., conducts business in Illinois and in this District including, without limitation, by developing, promoting, offering for sale and/or selling a variety of novelty and convenience products to consumers and/or resellers, including LED lighted eyeglasses that compete directly with the lighted eyeglasses of Waters Industries' Panther Vision division. The business activities of For Your Ease Only, Inc. include promoting, offering for sale and selling products to consumers in Illinois and in this District through its interactive website [www.lorigreiner.com](http://www.lorigreiner.com).

4. Upon information and belief, Defendant, QVC, Inc., is a corporation incorporated under the laws of the State of Delaware with its principal place of business at 1200 Wilson Drive, West Chester, Pennsylvania 19380. Upon information and belief, Defendant QVC, Inc., by itself, and/or through one or more entities owned, controlled or otherwise affiliated with QVC, Inc., conducts business in Illinois and in this District including, without limitation, by promoting, offering for sale and/or selling a variety of consumer products, including LED lighted eyeglasses that compete directly with the lighted eyeglasses of Waters Industries' Panther Vision division. The

business activities of QVC, Inc. include promoting, offering for sale and selling products to consumers in Illinois and in this District through its interactive website [www.qvc.com](http://www.qvc.com).

5. Upon information and belief, Defendant, Hammacher, Schlemmer & Co., Inc., is a corporation incorporated under the laws of the State of New York with its principal place of business at 9307 North Milwaukee Avenue, Niles, Illinois 60714. Upon information and belief, Defendant Hammacher, Schlemmer & Co., Inc., by itself, and/or through one or more entities owned, controlled or otherwise affiliated with Hammacher, Schlemmer & Co., Inc., conducts business in Illinois and in this District including, without limitation, by promoting, offering for sale and/or selling a variety of consumer products, including LED lighted eyeglasses that compete directly with the lighted eyeglasses of Waters Industries' Panther Vision division. The business activities of Defendant Hammacher, Schlemmer & Co., Inc. include promoting, offering for sale and selling products to consumers in Illinois and in this District through its interactive website [www.hammacher.com](http://www.hammacher.com).

#### **JURISDICTION AND VENUE**

6. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §1 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a).

7. Venue lies in this District pursuant to 28 U.S.C. §§1391(b), 1391(c) and 1400(b) because Defendants are subject to personal jurisdiction in this District, have regularly conducted business in this District directly, and/or through one or more resellers, and/or have committed acts of infringement in this District.

#### **FIRST CAUSE OF ACTION – INFRINGEMENT OF '695 PATENT**

8. On September 2, 2003, U.S. Patent No. 6,612,695 ("the '695 patent") entitled, "LIGHTED READING GLASSES" was duly and legally issued to Michael Waters on an

application filed on November 7, 2001. Waters Industries currently owns all right, title and interest in and to the '695 patent. A copy of the '695 patent is appended as Exhibit A.

9. Defendant Mr. Christmas Incorporated, by itself, and through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '695 patent by making, using, offering to sell, selling and/or importing LED lighted eyeglasses incorporating the inventions patented in the '695 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '695 patent. Defendant Mr. Christmas Incorporated's infringing products include the LED lighted eyeglasses shown in the attached Exhibit B. Unless enjoined by the Court, Defendant Mr. Christmas Incorporated will continue to infringe, contribute to the infringement of and/or induce the infringement of the '695 patent.

10. Defendant For Your Ease Only, Inc., by itself, and through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '695 patent by making, using, offering to sell, selling and/or importing LED lighted eyeglasses incorporating the inventions patented in the '695 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '695 patent. Defendant For Your Ease Only, Inc.'s infringing products include the LED lighted eyeglasses shown in the attached Exhibit C. Unless enjoined by the Court, Defendant For Your Ease Only, Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the '695 patent.

11. Defendant QVC, Inc., by itself, and through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '695 patent by making, using, offering to sell, selling and/or importing LED lighted eyeglasses incorporating the inventions patented in the '695 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '695 patent. Defendant QVC, Inc.'s infringing products include the LED lighted eyeglasses shown in the attached Exhibit D. Unless enjoined by the Court, Defendant

QVC, Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the '695 patent.

12. Defendant Hammacher, Schlemmer & Co., Inc., by itself, and through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '695 patent by making, using, offering to sell, selling and/or importing LED lighted eyeglasses incorporating the inventions patented in the '695 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '695 patent. Defendant Hammacher, Schlemmer & Co., Inc.'s infringing products include the LED lighted eyeglasses shown in the attached Exhibit E. Unless enjoined by the Court, Defendant Hammacher, Schlemmer & Co., Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the '695 patent.

13. Each Defendant's direct infringement of the '695 patent, and/or inducement of or contribution to the infringement of others, has injured Waters Industries, and Waters Industries is entitled to recover damages adequate to compensate for such infringement pursuant to 35 U.S.C. §284.

14. Waters Industries has provided Defendants Mr. Christmas Incorporated and For Your Ease Only, Inc. actual notice of the '695 patent and of the alleged infringement, but Defendants Mr. Christmas Incorporated and For Your Ease Only, Inc. have continued to infringe notwithstanding their actual knowledge thereof and lack of an objectively reasonable good faith basis to believe that their activities do not infringe any valid claims of the '695 patent. The infringement of the '695 patent by Mr. Christmas Incorporated and For Your Ease Only, Inc. has been willful and deliberate.

15. The infringement by each Defendant will continue to injure Waters Industries unless the Court enters an injunction prohibiting further infringement of the '695 patent.

**PRAYER FOR RELIEF**

WHEREFORE, Waters Industries prays for:

1. Judgment that the '695 patent is valid, enforceable, and infringed by each Defendant;
2. Judgment that the infringement by Defendants Mr. Christmas Incorporated and For Your Ease Only, Inc. is willful;
3. A preliminary and permanent injunction enjoining each Defendant, its officers, agents, servants, employees, subsidiaries and affiliated companies, and those persons acting in active concert or participation therewith, from engaging in the aforesaid unlawful acts of patent infringement;
4. An award of damages arising out of each Defendant's acts of patent infringement, together with pre-judgment and post-judgment interest;
5. Judgment that the damages so adjudged against Mr. Christmas Incorporated and For Your Ease Only, Inc. be trebled in accordance with 35 U.S.C. §284;
6. An award of Waters Industries' attorneys fees, costs and expenses incurred in this action in accordance with 35 U.S.C. §285; and
7. Such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Waters Industries demands trial by jury of all issues triable of right by a jury.

Respectfully submitted,

Date: December 7, 2009

/s/Timothy P. Maloney

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